



CITY OF HAYWARD AGENDA REPORT

Meeting Date 04/14/05
Agenda Item 2

TO: PLANNING COMMISSION

FROM: Arlynne J. Camire, AICP, Associate Planner

SUBJECT: Use Permit Application No. PL-2004-0685 - Dr. Yulin Wu of Hayward Health Center (Applicant) / Tzen-Wen Guo (Owner) – Request to Conduct Massage Services in Conjunction with an Acupuncture Office.

The Property is Located at 30048 Mission Boulevard, Suite 131, in the Mission Park Center in the General Commercial (CG) Zoning District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the project is Categorically Exempt from CEQA pursuant to Section 15301, Class (b), Class 1, Existing Facilities; and
2. Approve the Use Permit application subject to the attached findings and conditions of approval.

BACKGROUND:

Hayward Health Center was established on April 5, 2004. The applicant, Dr. Yulin Wu, received a business license as acupuncturist and acupressurist. He now intends to provide massage services apart from his medical services.

Chapter 6, Article 10 of the Hayward Municipal Code exempts massage therapists from City permitting if the therapist is employed by and works under the direction of a person that practices the healing arts; acupuncturists are licensed as such in California. However, in this case the massage therapists are required to obtain a Massage Technician Permit because they would be providing massage services apart from the therapeutical direction of Dr. Wu. To obtain a Massage Technician Permit a masseuse must provide valid identification, proof of adequate training, proof of employment with a massage establishment, and undergo an extensive Police Department background check. In addition, Dr. Wu is required to obtain a Massage Establishment Permit. He would undergo an extensive background check by the Police Department, provide a list of all massage therapists he employs, and provide the name of the property owner and a copy of a lease or rental agreement.

The Zoning Ordinance defines such massage services as a "massage parlor," for which a Conditional Use Permit is required. If the use permit is approved, then the massage therapists could provide services that are independent from the treatment provided by Dr. Wu.

The 1,194-square-foot office is located on the ground floor of the middle of three, two-story commercial buildings known as Mission Park Center located on the east side of Mission Boulevard across from Mission Hills Golf Course. Businesses in the center include professional offices, personal services and retail commercial establishments. Parking is located in front and to the rear of the buildings. Medium-density residential buildings (duplexes and triplexes) are located to the east on Vanderbilt Street in the *Medium-Density Residential District*. To the north is a vacant, single-story, building that once housed Farmers Insurance Drive-in Claim Center. To the south is a vacant lot that will be developed with a two-story residential-commercial mixed-use project approved by the Planning Commission on February 24, 2005.

The General Plan land use designation for the subject property is *Commercial/High-Density Residential*. The property is located within the *General Commercial (CG) District*.

Project Description

Dr. Wu operates an acupuncture/acupressure medical office and proposes to add massage as a general service in addition to his medical services. Four licensed massage therapists would provide massage services. Currently, the hours of operation of the medical office are from 11:00 am to 9:30 pm. However, massage services are limited by the Municipal Code to the hours from 9:00 am to 9:00 pm. Therefore, a condition of approval would limit the hours of operation of the medical office from 9:00 am to 9:00 pm.

The office includes a 70-square-foot doctor's examination room and three therapy rooms, each 70 square feet in area. The facility would include two showers and a steam room. There are on-site laundry facilities. In order to meet one of several operating requirements, an employee lounge would be converted to a men's restroom to provide separate restroom facilities for men and women. The applicant has submitted a building permit for this tenant improvement; however, the permit has not been issued dependent upon the outcome of this permit. All improvements would be required to be completed prior to the commencement of massage services.

The approval of this application in conjunction with an acupuncture office will introduce a multiple service alternative therapeutic health center into south Hayward. As conditioned, the massage service is consistent with the regulations of the Municipal Code and the General Commercial Zoning District.

In April 1996, a site plan review was approved to construct the Mission Park Center. As part of the site plan review, a master sign program was approved that allows one monument directory sign for each of the three buildings and a wall sign with individual letters for each business. Prior to application, the applicant installed a wall sign compliant with the sign program but without a permit. He would be required to obtain a sign permit prior to providing massage

services. In addition, a landscape plan was approved; any missing or dying landscape would be required to be replaced prior to providing massage services.

ENVIRONMENTAL REVIEW:


The proposed project is categorically exempt from environmental review pursuant to Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

PUBLIC NOTICE:


On December 17, 2004, a Referral Notice was mailed to every property owner and occupant as noted on the latest assessor's records within 300 feet of the property, the Fairway Park and Mission-Garin Neighborhood Task Force members, and the Twin Bridges and Fairway Park Homeowner Associations. One call in opposition was received from an adjacent commercial property owner who was concerned that the operation could become a house of prostitution.

On April 1, 2005, a notice of public hearing was mailed. No additional comments have been received.

Prepared by:

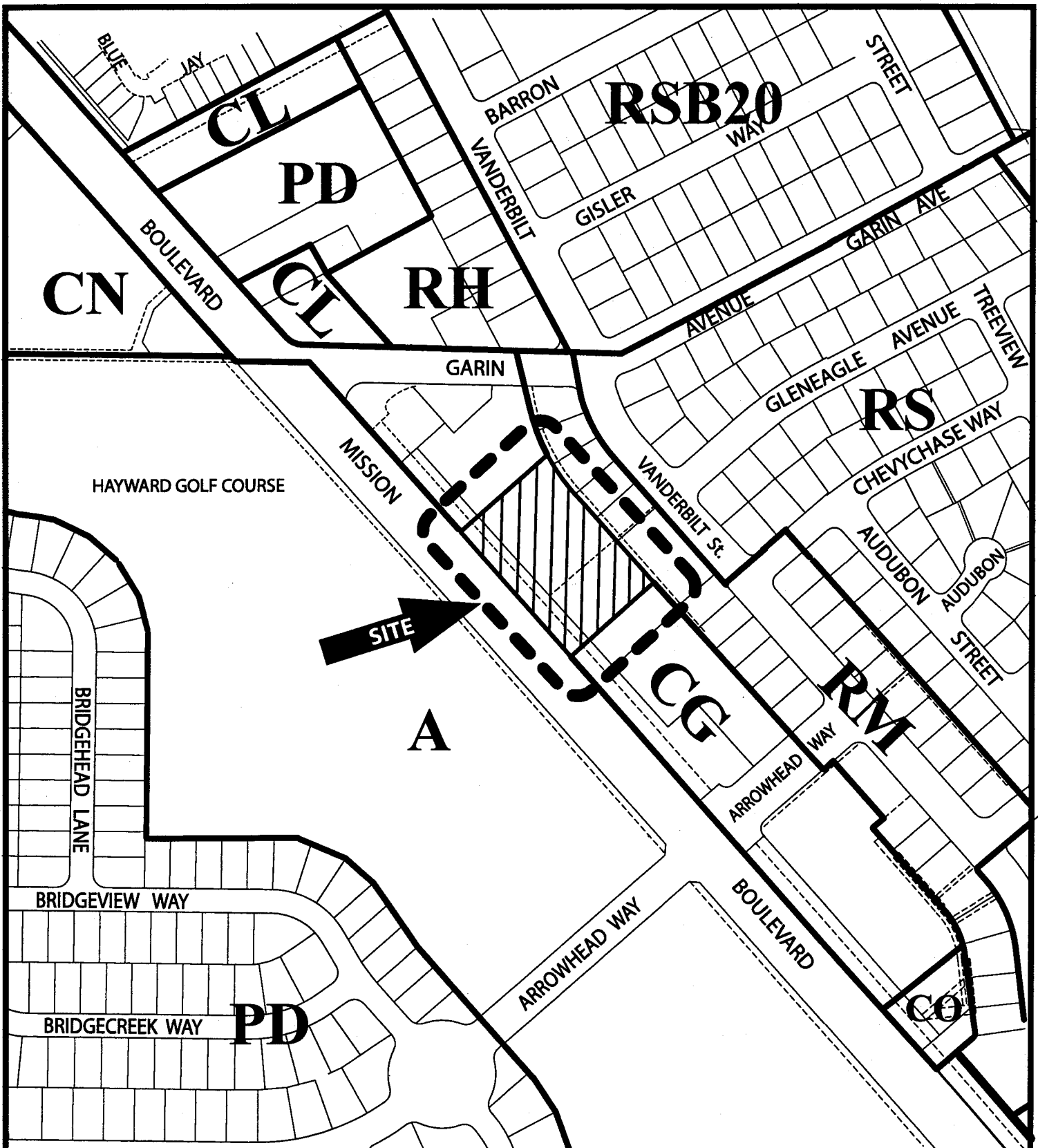

Arlyne J. Camire, AICP
Associate Planner

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A Zoning/Area Map
- B Findings for Approval
- C Conditions of Approval
- D Floor Plan
- E Site Plan



Area & Zoning Map

PL-2004-0685 UP

Address: 30048 Mission Blvd.

Applicant: Yat Cour

Owner: Tzen-Wen Guo

A-Agricultural-ABSA,AB10A,AB100A,AB160A

CG-General Commercial

CL-Limited Access Commercial

CN-Neighborhood Commercial

CO-Commercial Office

PD-Planned Development

RH-High Density Residential RHB 7

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential,RSB4,RSB6



USE PERMIT APPLICATION NO. PL-2004-0685

30048 Mission Boulevard, Suite 131

Dr. Yulin Wu, Applicant

Tzen-Wen Guo, Owner

Based on the staff report and the public record:

FINDINGS FOR APPROVAL

- A. Approval of Use Permit Application No. 2004-0685 to allow the offering of massage services in an acupuncture/acupressure medical office in the General Commercial Zoning District is exempt from the provisions of California Environmental Quality Act guidelines pursuant to Section 15301, *Existing Facilities*.
- B. Massage service in conjunction with acupuncture services is a use that is desirable for the public convenience or welfare in that a multiple service alternative therapeutic health center will be introduced to south Hayward.
- C. Offering massage services will not impair the character and integrity of the neighborhood in that it is located entirely within a medical office and conditions will be imposed to mitigate any unforeseen adverse impacts.
- D. The proposed massage service will not be detrimental to the public health, safety, or general welfare in that each massage therapist is required to meet all the requirements of the Municipal Code which regulate massage establishments and require all message therapists to obtain Massage Technician Permits that require extensive background checks by the Police Department.
- E. The offering of massage services in conjunction with medical services is in harmony with applicable City policies as well as the intent and purpose of the General Commercial Zoning District in that the use will be compatible with commercial activity and provides a desirable working environment without being detrimental to the public health, safety or general welfare of surrounding properties.

USE PERMIT APPLICATION NO. PL-2004-0685

30048 Mission Boulevard, Suite 131

Dr. Yulin Wu, Applicant

Tzen-Wen Guo, Owner

CONDITIONS OF APPROVAL

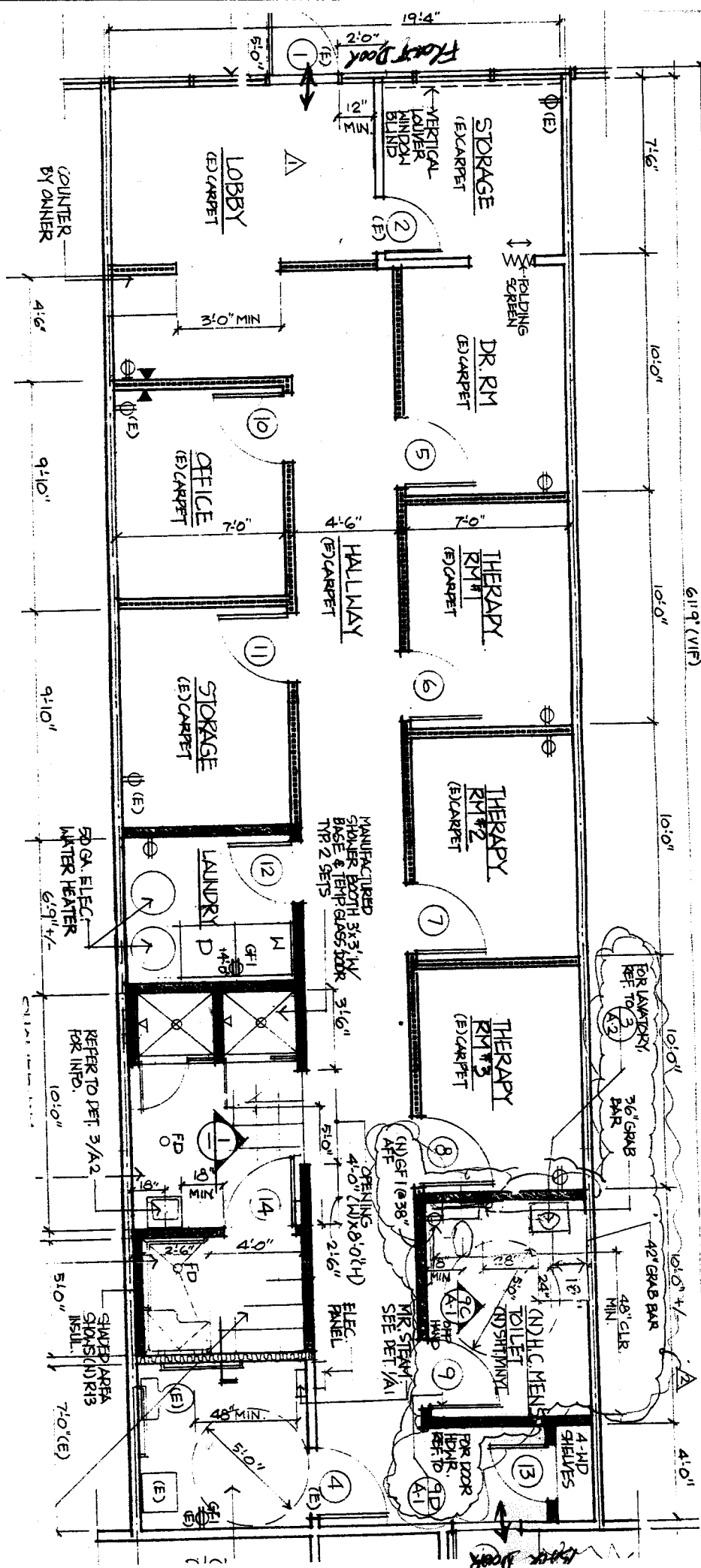
1. Use Permit Application No. PL- 2004-0685 to allow for massage services in a medical office in the General Commercial Zoning District, is approved subject to the plans labeled "Exhibit A", and the conditions listed below. This permit becomes void one year after the effective dated of approval, unless prior to that time a building permit application has been submitted and accepted for processing by the Building Official and a Massage Establishment Permit has been authorized, or a time extension of this application is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to April 14, 2006. Any modification to this permit shall require review and approval by the Planning Director.
2. Any modification to the approved plans or conditions shall require review and approval by the Planning Director. Acupressure shall not be performed by the massage therapists.
3. Prior to the commencement of massage services, the following must be completed by the business owner and the applicant:
 - a) A Massage Establishment Permit shall be obtained and shall be maintained as long as massage services are offered. Please contact the Revenue Division at (510) 583-4600 for necessary application forms.
 - b) The applicant shall obtain from the California Acupuncture Board a duplicate license for this office and post the license in clear view of patients.
 - c) All massage technicians shall have a Massage Technician Permit. Please contact the Revenue Division at (510) 583-4600 for necessary application forms.
 - d) Replace missing landscape and groundcover that was originally approved for this site. Replace three street trees on the Mission Boulevard frontage. Replace required end-cap and shade trees for the parking lot and screening trees located in the rear of the site. In addition, replace shrubs screening in all parking areas, and the groundcover and decorative shrubs throughout the site. All missing plant material shall be replaced by the owner prior to occupancy of this new use.
4. Massage services are not permitted to be provided until the men's restroom has been completed and approved by the Building Official.
5. A sign permit shall be obtained for the existing wall sign that meets the criteria of the Mission Park Center Master Sign Program.
6. The property owner/applicant shall maintain in good repair all building exteriors, awnings, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within three days of occurrence.

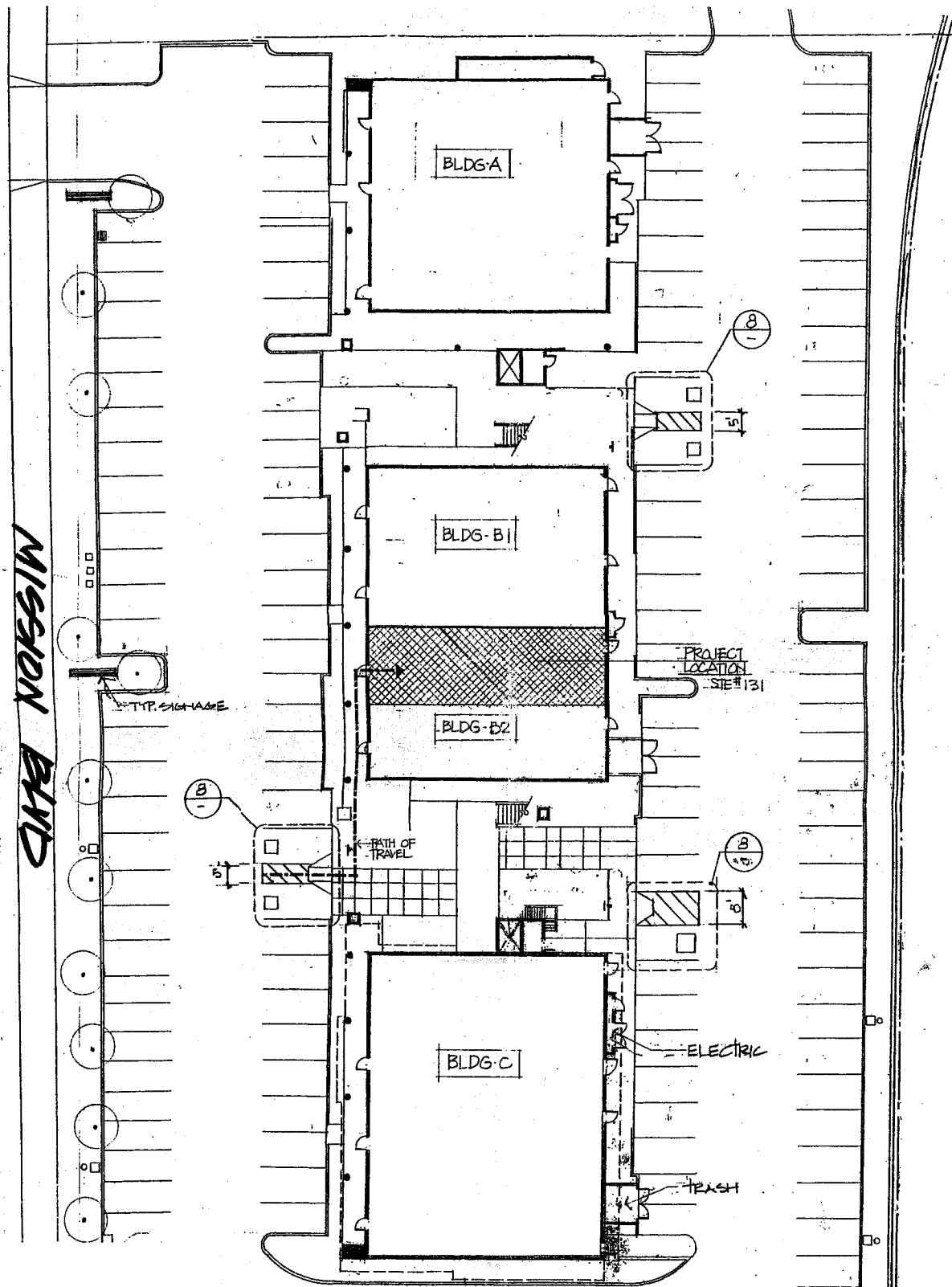
7. The business owner/operator shall permit the City officials the right to enter the premises used by the massage technicians from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, plumbing, or health codes, the California Penal Code and the Hayward Municipal Code.
8. All applicable provisions of Chapter 6, Article 10 (Massage Establishments and Massage Technicians) shall be adhered to. This includes, but is not limited to:
 - a) One artificial white light of not less than forty (40) watts shall be provided and lit in each room while a massage is being administered. The walls shall be clean and painted with an approved washable mold resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Separate restrooms shall be provided for men and women.
 - b) Towels, sheets, and linens of all types and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, clothes, and sheets shall not be used for more than one person. Reuse of such linen is prohibited unless the same has first been laundered. Heavy white paper may be substituted for sheets, provided that such paper is used once for every person and then discarded into a sanitary receptacle.
 - c) Dressing and locker facilities shall be available for patrons. Security deposit facilities for the protection of the valuables of the patron shall also be available.
 - d) All main external front entrance doors into the establishment and all internal doors leading to massage areas shall remain unlocked during the business hours of the massage establishment.
9. The establishment shall comply with the following operating requirements:
 - a) Each person employed or acting as a massage technician shall have a valid permit issued by the City of Hayward and it shall be unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of or in control of the establishment to employ or permit a person to act as a massage technician as defined herein who is not in possession of a valid massage technician's permit.
 - b) All medical and massage services shall be limited to the hours from 9:00 am to 9:00 pm.
 - c) A list of services available and the cost of such services shall be posted in an open, public place on the premises and shall be described in readily understandable language. No owner, operator, responsible managing employee, manager, or permittee shall permit and no massage technician shall offer to perform any services other than those posted.
 - d) To protect patrons from potential health and sanitary hazards, all employees and massage technicians shall be clean and shall perform all services on the premises in full, clean, outer garments. Clothing furnished to patrons by the establishment shall not be used by more than one (1) patron unless it has first been laundered and disinfected.
 - e) No person shall enter, be or remain, in any part of a massage establishment while in

possession of, consuming, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, manager, or permittee shall not permit any such person to enter or remain upon such premises.

10. The business owner or operator shall display the massage establishment permit issued and the permit of each and every massage technician who is on duty in the establishment in an open and conspicuous place on the premises. Each massage technician's permit shall bear his or her photograph.
11. The business owner or operator shall maintain a register of all persons employed as massage technicians and their permit numbers. Such register shall be available for inspection at all times during regular business hours.
12. Violation of these conditions is cause for revocation of the use permit after public hearing before the duly authorized review body.
13. If it comes to the attention of the Planning Director that there are problems occurring as a result the massage services at an acupuncture medical office, the Director may call the use permit application up to the Planning Commission for consideration of imposing additional conditions or revocation.

SEE DWG-1/A2

6119' (V1F)



RECEIVED

DEC 08 2004

PLANNING DIVISION

ATTACHMENT E

PROJECT #
PL-2004-0685 UP